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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,300	06/20/2003	Jeffrey P. Whittemore	ZIP-0008	7713

7590 10/21/2004

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EXAMINER

BAXTER, GWENDOLYN WRENN


ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 10/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

UN

 Office Action Summary	Application No. 10/600,300	Applicant(s) WHITTEMORE ET AL	
	Examiner Gwendolyn Baxter	Art Unit 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-31 and 33-40 is/are rejected.
- 7) ☒ Claim(s) 32 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

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This is the first Office Action for application serial number 10/600,300, Partition Mount with Extended-Length Head filed June 20, 2004.

Information Disclosure Statement

The information disclosure statement filed January 16, 2004, January 28, 2004, June 1, 2004 and August 16, 2004 has been placed in the application file, and the information referred to therein has been considered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: No relationship has been defined for the coupler of claim 1 as it relates to the other components of this claim.

Claims 11-14, 17-19 and 35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Regarding claim 11, independent claim 1 recites an intended use “for receiving a mounting member”; however the dependent claim 11 recites a positive limitation, “wherein the mounting member comprises a mounting pole”. Consequently, it is unclear whether applicant intends to claim the combination of the mount with the mounting member of claim 11. A similar problem occurs in claims 14, 17 and 35.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 20-27, 33, 34, 36, 38 and 40 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,341,401 to Lin. The present invention reads on Lin as follows: Lin teaches a mounting member comprises an elongated body (U-shaped member or rail attached to the sponge as shown in figure 6), a curtain interface (14) and a coupler (12). The elongated body has a longitudinal axis. The curtain interface is coupled to an upper surface of the body. The coupler includes an interface (20) for receiving a mounting member. The curtain interface is a compressible material selected from the group consisting of foam, polyurethane foam, extruded vinyl and rubber strips. The curtain interface is mounted in the U-shaped slot. The mounting member comprises a mounting pole (11). The coupler includes a socket (210) for

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receiving a ball joint (220) of a mounting pole. The length of the body is substantially greater than a width of the body. The body is rotatable relative to the mounted pole. The pole includes a compression mechanism (16) to allow for compression along a longitudinal axis thereof.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9, 11-13, 15-17, 19, 21-31, 33, 34 and 36-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,341,401 to Lin in view of U.S. Patent No. 5,331,706 to Graham. Lin teaches a mount comprising an elongated body (U-shaped member or rail attached to the sponge as shown in figure 6), a curtain interface (14) and a coupler (12). The elongated body has a longitudinal axis. The curtain interface is coupled to an upper surface of the body. The coupler includes an interface (20) for receiving a mounting member. The curtain interface is a compressible material selected from the group consisting of foam, polyurethane foam, extruded vinyl and rubber strips. The curtain interface is mounted in the U-shaped slot. The mounting member comprises a mounting pole (11). The coupler includes a socket (210) for receiving a ball joint (220) of a mounting pole. The length of the body is substantially greater than a width of the body. The body is rotatable relative to the

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mounted pole. The pole includes a compression mechanism (16) to allow for compression along a longitudinal axis thereof. However, Lin fails to teach the position of the coupler being adjustable relative to the longitudinal axis of the body and removably mountable to the body.

Graham teaches a mount comprises an elongated body (22), a curtain interface (24) and a coupler (12). The position of the coupler is adjustable relative to the longitudinal axis of the body and removably mountable to the body. Although, Lin is silent to this aspect, Graham teaches the coupler moves along the longitudinal axis of the body and ultimately removed from the body. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the teaching to the coupler and body as taught by Lin to have incorporated the adjustability and removability to the body for the purpose of replacing the curtain interface when worn.

Regarding claim 6, the limitation "the rail comprises an extrusion" was not given patentable weight, since this limitation is a product by process limitation.

Regarding claim 8, Graham teaches the coupler having a quick release arms (30) that engages a feature on the body for removably mounting the coupler to the body.

Regarding claims 13 and 34, Lin teaches the coupler including a retainer (30) for preventing lateral rotation of the body relative to the mounting pole.

Regarding claims 16 and 37, it would have been an obvious matter of design choice to have modified the length of the body as taught by Lin in view of Graham to have incorporated the body being at least 1 ft., since such a modification would have

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involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lin in view of Graham, as applied supra, and in further view of U.S. Patent No. 6,170,112 to Mayfield. Lin in view of Graham teaches the limitations of the base claim excluding the pole length is adjustable.

Mayfield teaches an adjustable pole (64, 72). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the pole as taught by Lin in view of Graham to have incorporated the adjustable pole as taught by Mayfield to extend the length of the pole to fit the user.

Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lin in view of U.S. Patent No. 6,170,112 to Mayfield. Lin teaches the limitations of the base claim excluding the pole length is adjustable.

Mayfield teaches an adjustable pole (64, 72). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the pole as taught by Lin to have incorporated the adjustable pole as taught by Mayfield to extend the length of the pole to fit the user.

Allowable Subject Matter

Claims 10, 14, and 35 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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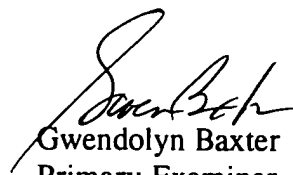
Claim 32 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gwendolyn Baxter whose telephone number is 703-308-0702. The examiner can normally be reached on Monday-Wednesday, 8:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A Braun can be reached on 703-308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Gwendolyn Baxter
Primary Examiner
Art Unit 3632

September 30, 2004